

HOUSE BILL 29

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(PRE-FILED)

By: **Delegate Ivey**

Requested: October 12, 2020

Introduced and read first time: January 13, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Standards for Involuntary Admissions and Petitions for Emergency**
3 **Evaluation – Substance Use Disorder**

4 FOR the purpose of altering certain circumstances to allow a petition for an emergency
5 evaluation to be made for certain individuals who have a substance use disorder;
6 altering the requirements for certain rules and regulations governing the contents
7 of a certain form relating to a certificate for involuntary admission; altering a certain
8 exception to allow for the involuntary admission of certain individuals who have a
9 substance use disorder to certain facilities or a Veterans' Administration hospital;
10 altering the circumstances under which a court is required to endorse a petition for
11 an emergency evaluation; altering a certain exception to the requirement that a
12 certain hearing officer order the release of an individual proposed for involuntary
13 admission; making a technical correction; making a conforming change; and
14 generally relating to involuntary admissions, petitions for emergency evaluation,
15 and individuals who have a substance use disorder.

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 10–616, 10–617, 10–622, 10–623, and 10–632
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2020 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Health – General**

24 10–616.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) A certificate for involuntary admission of an individual under this part
2 shall:

3 (i) Be based on the personal examination of the physician,
4 psychologist, or psychiatric nurse practitioner who signs the certificate; and

5 (ii) Be in the form that the Secretary adopts, by rule or regulation.

6 (2) The rules and regulations shall require the form to include:

7 (i) A diagnosis of a mental disorder **OR SUBSTANCE USE**
8 **DISORDER** of the individual;

9 (ii) An opinion that the individual needs inpatient care or treatment;
10 and

11 (iii) An opinion that admission to a facility or Veterans'
12 Administration hospital is needed for the protection of the individual or another.

13 (b) A certificate may not be used for admission if the examination on which the
14 certificate is made was done:

15 (1) More than 1 week before the certificate is signed; or

16 (2) More than 30 days before the facility or the Veterans' Administration
17 hospital receives the application for admission.

18 (c) A certificate may not be used for an admission if the physician, psychologist,
19 or psychiatric nurse practitioner who signed the certificate:

20 (1) Has a financial interest, through ownership or compensation, in a
21 proprietary facility and admission to that proprietary facility is sought for the individual
22 whose status is being certified; or

23 (2) Is related, by blood or marriage, to the individual or to the applicant.

24 10-617.

25 (a) A facility or Veterans' Administration hospital may not admit the individual
26 under this part unless:

27 (1) The individual has [a]:

28 (I) **A mental disorder; OR**

29 (II) **A SUBSTANCE USE DISORDER;**

1 (2) The individual needs inpatient care or treatment;

2 (3) The individual presents a danger to the life or safety of the individual
3 or of others;

4 (4) The individual is unable or unwilling to be admitted voluntarily; and

5 (5) There is no available, less restrictive form of intervention that is
6 consistent with the welfare and safety of the individual.

7 (b) (1) In addition to the limitations in subsection (a) of this section, a State
8 facility may not admit an individual who is 65 years old or older unless a geriatric
9 evaluation team determines that there is no available, less restrictive form of care or
10 treatment that is adequate for the needs of the individual.

11 (2) If admission is denied because of the determination of the geriatric
12 evaluation team, the team shall:

13 (i) Inform the applicant; and

14 (ii) Help the applicant obtain the less restrictive form of care or
15 treatment that the team finds would be adequate for the needs of the individual.

16 10-622.

17 (a) A petition for emergency evaluation of an individual may be made under this
18 section only if the petitioner has reason to believe that the individual:

19 (1) Has [a]:

20 (I) A mental disorder; OR

21 (II) A SUBSTANCE USE DISORDER; and

22 (2) Presents a danger to the life or safety of the individual or of others.

23 (b) (1) The petition for emergency evaluation of an individual may be made by:

24 (i) A physician, psychologist, clinical social worker, licensed clinical
25 professional counselor, clinical nurse specialist in psychiatric and mental health nursing,
26 psychiatric nurse practitioner, licensed clinical marriage and family therapist, or health
27 officer or designee of a health officer who has examined the individual;

28 (ii) A peace officer who personally has observed the individual or the
29 individual's behavior; or

1 (iii) Any other interested person.

2 (2) An individual who makes a petition for emergency evaluation under
3 paragraph (1)(i) or (ii) of this subsection may base the petition on:

4 (i) The examination or observation; or

5 (ii) Other information obtained that is pertinent to the factors giving
6 rise to the petition.

7 (c) (1) A petition under this section shall:

8 (i) Be signed and verified by the petitioner;

9 (ii) State the petitioner's:

10 1. Name;

11 2. Address; and

12 3. Home and work telephone numbers;

13 (iii) State the emergency evaluatee's:

14 1. Name; and

15 2. Description;

16 (iv) State the following information, if available:

17 1. The address of the emergency evaluatee; and

18 2. The name and address of the spouse or a child, parent, or

19 other relative of the emergency evaluatee or any other individual who is interested in the
20 emergency evaluatee;

21 (v) If the individual who makes the petition for emergency
22 evaluation is an individual authorized to do so under subsection (b)(1)(i) of this section,
23 contain the license number of the individual;

24 (vi) Contain a description of the behavior and statements of the
25 emergency evaluatee or any other information that led the petitioner to believe that the
26 emergency evaluatee [has a mental disorder and that the individual presents a danger to the
27 life or safety of the individual or of others] **MEETS THE CRITERIA UNDER SUBSECTION**
28 **(A) OF THIS SECTION;** and

1 (vii) Contain any other facts that support the need for an emergency
2 evaluation.

3 (2) The petition form shall contain a notice that the petitioner:

4 (i) May be required to appear before a court; and

5 (ii) Makes the statements under penalties of perjury.

6 (d) (1) A petitioner who is a physician, psychologist, clinical social worker,
7 licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental
8 health nursing, psychiatric nurse practitioner, licensed clinical marriage and family
9 therapist, health officer, or designee of a health officer shall give the petition to a peace
10 officer.

11 (2) The peace officer shall explain to the petitioner:

12 (i) The serious nature of the petition; and

13 (ii) The meaning and content of the petition.

14 10-623.

15 (a) If the petitioner under Part IV of this subtitle is not a physician, psychologist,
16 clinical social worker, licensed clinical professional counselor, clinical nurse specialist in
17 psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical
18 marriage and family therapist, health officer or designee of a health officer, or peace officer,
19 the petitioner shall present the petition to the court for immediate review.

20 (b) After review of the petition, the court shall endorse the petition if the court
21 finds probable cause to believe that the emergency evaluatee [has]:

22 (1) **HAS** shown the symptoms of [a]:

23 (I) **A** mental disorder; **OR**

24 (II) **A SUBSTANCE USE DISORDER**; and [that the individual
25 presents]

26 (2) **PRESENTS** a danger to the life or safety of the individual or of others.

27 (c) If the court does not find probable cause, the court shall indicate that fact on
28 the petition, and no further action may be taken under the petition.

29 10-632.

1 (a) Any individual proposed for involuntary admission under Part III of this
2 subtitle shall be afforded a hearing to determine whether the individual is to be admitted
3 to a facility or a Veterans' Administration hospital as an involuntary patient or released
4 without being admitted.

5 (b) The hearing shall be conducted within 10 days of the date of the initial
6 confinement of the individual.

7 (c) (1) The hearing may be postponed for good cause for no more than 7 days,
8 and the reasons for the postponement shall be on the record.

9 (2) A decision shall be made within the time period provided in paragraph
10 (1) of this subsection.

11 (d) The Secretary shall:

12 (1) Adopt rules and regulations on hearing procedures; and

13 (2) Designate an impartial hearing officer to conduct the hearings.

14 (e) The hearing officer shall:

15 (1) Consider all the evidence and testimony of record; and

16 (2) Order the release of the individual from the facility unless the record
17 demonstrates by clear and convincing evidence that at the time of the hearing each of the
18 following elements exist as to the individual whose involuntary admission is sought:

19 (i) The individual has [a]:

20 1. A mental disorder; OR

21 2. A SUBSTANCE USE DISORDER;

22 (ii) The individual needs in-patient care or treatment;

23 (iii) The individual presents a danger to the life or safety of the
24 individual or of others;

25 (iv) The individual is unable or unwilling to be voluntarily admitted
26 to the facility;

27 (v) There is no available less restrictive form of intervention that is
28 consistent with the welfare and safety of the individual; and

1 (vi) If the individual is 65 years old or older and is to be admitted to
2 a State facility, the individual has been evaluated by a geriatric evaluation team and no
3 less restrictive form of care or treatment was determined by the team to be appropriate.

4 (f) A hearing officer may not order the release of an individual who meets the
5 requirements for involuntary admission under subsection (e)(2) of this section on the
6 grounds that a health care provider or an emergency or other facility did not comply with
7 disclosure or notice requirements under § 10–625(c) or § 10–631(b)(5) of this subtitle, §
8 10–803(b)(2) of this title, or § 4–306(c) or § 4–307(l) of this article.

9 (g) The hearing officer may not order the release of an individual who meets the
10 requirements for involuntary admission under subsection (e)(2) of this section on the
11 grounds that the individual was kept at an emergency facility for more than 30 hours in
12 violation of § 10–624(b)(4) of this subtitle.

13 (h) The parent, guardian, or next of kin of an individual involuntarily admitted
14 under this subtitle:

15 (1) Shall be given notice of the hearing on the admission; and

16 (2) May testify at the hearing.

17 (i) If a hearing officer enters an order for involuntary commitment under Part III
18 of this subtitle and the hearing officer determines that the individual cannot safely possess
19 a firearm based on credible evidence of dangerousness to others, the hearing officer shall
20 order the individual who is subject to the involuntary commitment to:

21 (1) Surrender to law enforcement authorities any firearms in the
22 individual's possession; and

23 (2) Refrain from possessing a firearm unless the individual is granted relief
24 from firearms disqualification in accordance with § 5–133.3 of the Public Safety Article.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2021.